

Brussels, - 8 AVR. 2011
C/2011/2407

Dear President,

I would like to thank you for forwarding the opinion of the Lithuanian Seimas on the Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development {COM (2010) 537 final}.

The Commission takes note that the opinion points to a possible contradiction of the above-mentioned proposal with the principles of subsidiarity and proportionality.

In the view of the Lithuanian Seimas the proposed delegations to the Commission in Articles 5(6), 51(4) and 74(4) of Regulation (EC) No 1698/2005 are essential elements of the legislative act and should therefore be adopted by means of implementing acts.

In reply to this concern, I would like to emphasise that Article 290(1) TFEU provides that a legislative act may delegate to the Commission the power to supplement or amend only non-essential elements of the legislative act. This does not imply however that essential elements of legislative acts may be adopted by the Commission by means of implementing acts. Essential elements of legislative acts are the reserved domain of the legislator. Indeed, Article 291 TFEU defines clearly the scope of implementing acts, which is to adopt "uniform conditions for implementing legally binding Union acts" where those are needed. Consequently the Treaty does not allow for the conferral of powers to the Commission to adopt essential elements of a legislative act by means of implementing acts.

The Commission confirms its view that the provisions to be adopted by means of delegated acts on the basis of Articles 5(6), 51(4) and 74(4) of Regulation (EC) No 1698/2005 are not to be considered as essential parts of the act. In this respect it should be pointed out that under the current situation these provisions are not part of the basic regulation. These provisions are also not new ⁸⁹ but they are already contained in the existing implementing regulations (EC) No 1974/2006 and (EC) No 1975/2006.

Furthermore, the Lithuanian Seimas considers that the Explanatory Memorandum of the proposal does not provide exhaustive or sufficient justification on why the proposal complies with the principle of subsidiarity.

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In this respect, the Commission would like to recall that the proposal under discussion is not a new legislative initiative but it merely amends existing provisions of Regulation (EC) No 1698/2005, on the one hand in order to align the regulation to the provisions of the Treaty of Lisbon, and on the other hand to introduce certain amendments of substance mainly following from the 39 simplification proposals of the Member States.

However, let me stress that, as the Commission takes its Treaty obligation to adequately justify each legislative proposal with regard to the principles of subsidiarity and proportionality very seriously, it will endeavour to ensure that the various existing justifications are reflected in more detail in the respective explanatory memoranda of its proposals.

The Commission hopes that these clarifications address the concerns expressed in your opinion and looks forward to deepening its political dialogue with the Lithuanian Seimas.

Yours faithfully,